

only after the ballots have been mailed or the balloting has commenced.

§ 452.73 Use of union funds.

In the interest of fair union elections, section 401(g) of the Act places two limitations upon the use of labor organization funds derived from dues, assessments, or similar levy. These limitations are:

(a) No such funds may be contributed or applied to promote the candidacy of any person in an election subject to title IV, either in an election within the organization expending the funds or in any other labor organization; and

(b) No such funds may be used for issuing statements involving candidates in the election.

This section is not intended to prohibit a union from assuming the cost of distributing to the membership on an equal basis campaign literature submitted to the union by the candidates pursuant to the rights granted by section 401(c), as previously discussed, nor does it prohibit the expenditure of such funds for notices, factual statements of issues not involving candidates, and other expenses necessary for the holding of the election.

§ 452.74 Expenditures permitted.

The Act does not prohibit impartial publication of election information. Thus, it would not be improper for a union to sponsor a debate at which all candidates for a particular office are afforded equal opportunity to express their views to the membership prior to an election. Similarly, a union may issue information sheets containing biographical data on all candidates so long as all candidates are given equal opportunity to submit such data.

§ 452.75 Union newspapers.

The provisions of section 401(g) prohibit any showing of preference by a labor organization or its officers which is advanced through the use of union funds to criticize or praise any candidate. Thus, a union may neither attack a candidate in a union-financed publication nor urge the nomination or election of a candidate in a union-financed letter to the members. Any such expenditure regardless of the

amount, constitutes a violation of section 401(g).³⁸

§ 452.76 Campaigning by union officers.

Unless restricted by constitutional provisions to the contrary, union officers and employees retain their rights as members to participate in the affairs of the union, including campaigning activities on behalf of either faction in an election. However, such campaigning must not involve the expenditure of funds in violation of section 401(g). Accordingly, officers and employees may not campaign on time that is paid for by the union, nor use union funds, facilities, equipment, stationery, etc., to assist them in such campaigning. Campaigning incidental to regular union business would not be a violation.

§ 452.77 Permissible use of union funds.

Certain uses of union funds are considered permissible under section 401(g). For example, a court ruled that money of a subordinate union may be contributed to a committee formed to challenge the results of a national union election under title IV when such contributions are properly authorized by the members in an effort to pursue election remedies both within and outside the union. In holding such activity to be outside the prohibitions of section 401(g), although the committee was formed by defeated candidates and their supporters, the court stated that “* * * It does not promote the candidacy of any person if an election is declared invalid by a court under title IV’s procedure despite the fact that in the rerun election the candidates may be identical. Neither the winner nor the loser of the disputed election gains votes by the setting aside of the election. Such action is not a vote-getting device but merely returns the parties to their pre-election

³⁸ *Hodgson v. Liquor Salesmen’s Union, Local No. 2*, 334 F.Supp. 1369 (S.D. N.Y.) aff’d 444 F.2d 1344 (C.A. 2 1971); *Shultz v. Local Union 6799, United Steelworkers*, 426 F.2d 969 (C.A. 9 1970).